

CONFIDENTIALUN Committee on the Peaceful
Uses of Outer SpaceGENERAL PRINCIPLES FOR THE EXPLORATION AND USE OF OUTER SPACE

AND

DEFINITION OF PEACEFUL USES OF OUTER SPACE
(CONTINGENCY)THE PROBLEM

A Soviet representative has informally indicated that his delegation will: (1) seek to accord priority to committee consideration of general principles to guide states in the use and exploration of outer space; and (2) raise again a version of the Soviet draft "Declaration of the Basic Principles Governing the Activities of States Pertaining to the Exploration and Use of Outer Space". (For the text, see Report of the Legal Subcommittee). Other delegations are likely to evidence a strong interest in the subject of general principles. Although the meeting is short, and the Soviets also have informally expressed a desire to avoid contentious issues, they may feel that enthusiasm for a statement of general principles at the Geneva meeting of the Legal Subcommittee may be rekindled and stimulated by capitalizing upon ~~widespread~~ concern over reports of United States military developments in outer space. It is possible, also, that a neutral or bloc member will propose consideration of a definition of "peaceful uses" or "peaceful purposes" in the outer space context. One purpose of such proposals would be to have the Committee, and possibly the General Assembly, tacitly or explicitly endorse restriction of the exploration and use of outer space to activities falling within such a definition or sanctioned by a statement of principles. A further purpose, regardless of Committee or General Assembly

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action on the proposals themselves, could be to excite concern with respect to some of our space activities including our high altitude tests and observation satellites.

It is possible, although we believe unlikely, that the Soviets will attempt to condition their agreement to forwarding to the General Assembly the recommendations of the Technical Subcommittee on our agreement to accord priority in the next meeting of the Outer Space Committee to consideration of a statement of general principles.

UNITED STATES POSITION

The United States has played a major role in the United Nations development of general principles to guide states in the uses and exploration of outer space. The General Assembly has unanimously expressed its concern that outer space be utilized and explored "only for the betterment of mankind" (General Assembly Resolution 1721 (XVI)). The principle is firmly established that outer space should be free for use by all in accordance with international law and not subject to national appropriation. Furthermore, members of the United Nations have agreed to "refrain from the use or threat of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations." (United Nations Charter, Art. II, Para. 4). The United States continues to conduct its outer space activities in accordance with these fundamental principles.

The United States has indicated, at the Geneva sessions of the Legal Subcommittee, its willingness to examine the matter of further elaboration
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of general principles. This important task is not one which can be undertaken haphazardly or in haste, nor is it a problem that lends itself to early consideration in a large body -- such as the General Assembly or one of its Main Committees which have neither time nor technical competence for effective elaboration. It is abundantly evident that neither the present short meeting of the Committee nor the 17th General Assembly provide an appropriate forum for the necessarily careful and sustained consideration of this matter. If general principles for the use and exploration of outer space are to be meaningful and useful, the process of international elaboration and agreement must be thoughtful and deliberate.

Indeed, no statement of general principles alone can in itself promulgate a regime of law and order in outer space. This objective will have to be developed chiefly through experience and cooperative arrangements on specific functional problems. The United States, with most other delegations represented on the Outer Space Committee, sought to forward such arrangements in the Legal Subcommittee; we shall continue to seek them in the months ahead both in our bilateral negotiations and in the United Nations and its family of agencies. The goal of a regime of law and order in outer space is not brought closer by the introduction of blatantly political proposals on which there is and can be no agreement among governments, even in principle. Several delegations in Geneva expressed concern that the Legal Subcommittee should not be misused as a propaganda forum; this is even more true of the full committee with its equally serious and wider responsibilities.

If the Soviet Union tables and promotes a version of its draft statement, the United States Delegate should: (a) conduct his general response in the

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manner indicated above; and (b) briefly but forcefully state our basic objections to the contents of the statement. In doing the latter, the United States Delegate may draw on the June 7 statement of the United States representative in the Legal Subcommittee. Materials will be provided the Delegation for use in the event other states, within the general form of this subject, undertake criticism of specific United States space programs--e. g., high altitude nuclear testing, photographic and observation satellites, alleged efforts to "control outer space or place in orbit weapons of mass destruction, and the nature of the United States space communications program.

In the context of outer space activities, the United States should seek to counter any efforts to equate the distinction between "peaceful" and "aggressive" with that between "civilian" and "military". Though the United States does not view further definition of the terms "peaceful uses" or "peaceful purposes" as necessary or appropriate at this time, the United States delegate may indicate within the context of a general statement that these terms clearly refer to activities consistent with international law, including the United Nations Charter. They refer to activities which do not constitute the threat or use of force against the territorial integrity or political independence of any state, and are not in any other manner inconsistent with the Purposes of the United Nations.

COMMENT

The Soviet Union tabled in the Legal Subcommittee meeting a proposed "Declaration of the Basic Principles Governing the Activities of States Pertaining to the Exploration and Use of Outer Space." (For the text, see report of the Legal Subcommittee.) This Soviet proposal, which purported

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to amplify and carry forward the general principles of law stated in Part A of General Assembly Resolution 1721 (XVI), was unacceptable to the United States. Its most objectionable features were: an attempt to import into the Legal Subcommittee the political question of the banning of war propaganda, which had been recently, and due to a Soviet reversal of policy, unsuccessfully considered by the Eighteen-Nation Disarmament Conference; an attempt to provide any state or states with a veto over any space activities which might be considered to interfere with other space activities; and an attempt to ban the use of earth satellites for intelligence-gathering purposes.

Though

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Though no formal proposals were tabled at the meeting of the full Outer Space Committee in March 1962, some delegations exhibited at that time an interest in various aspects of this subject. The Indians, supported explicitly by the Hungarians, asked that the Legal Subcommittee consider the drafting of a declaration prohibiting use of outer space for direct or indirect military purposes. Mexico, as part of a general concern with further implications of the United Nations Charter and international law for outer space, specifically suggested the non-applicability of Article 51 of the Charter (right of self-defense). Poland supported the Soviet Union's suggestion that space experiments impeding subsequent research should be prohibited, as well as France's contention that measures should be taken to prohibit contamination (by microbes or radioactivity).

In the Legal Subcommittee, no delegation explicitly opposed the further elaboration of general principles. Both Brazil and the United Kingdom undertook limited circulation of informal draft statements for comment. There appeared, however, to be general agreement that the subject was one which should be deferred to a subsequent session of the Legal Subcommittee. Most delegations felt that the Soviet draft was inappropriate. The closing statement of the United States Delegate dwelt at some length on this topic, and provides a sound base for the United States position at this meeting of the full Committee.

" . . . In concluding, I should like to say a few words about the subject of principles. It has been suggested by some that the United States does not consider principles important or valuable,

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valuable, in the context of outer space. Actually, this is far from the truth. As some representatives have pointed out, it was a United States working paper which became the basis for the report submitted three years ago by the Ad Hoc Committee on the Peaceful Uses of Outer Space in the section dealing with legal problems. That working paper and the report of the Ad Hoc Committee both contained the statements concerning the freedom of outer space and the applicability of the United Nations Charter which were forerunners of the principles set forth in Resolution 1721 (XVI) of the General Assembly. The Assembly resolution went on to include the principles of applicability of international law to relations among states--except as it might be otherwise agreed--and the principle that outer space and celestial bodies are not capable of appropriation to national sovereignty. The United States Delegation, as drafters and sponsors of the Assembly resolution, wish to make very clear the importance we attach to the development of sound general principles as well as to the achievement of progress in solving practical questions. We look forward in the future to the development of further general principles concerning the law of outer space. These meetings in Geneva have been a beginning. We have a long way to go and much work to do. . . ."

General Assembly Resolution 1721 (XVI) is the basic pronouncement of the international community on the law of outer space. This resolution:

"Commends

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"Commends to States for their guidance in the exploration and use of outer space the following principles:

- "(a) International law, including the Charter of the United Nations, applies to outer space and celestial bodies;
- "(b) Outer space and celestial bodies are free for exploration and use by all in conformity with international law and are not subject to national appropriation."

The United States has taken the position that these two principles are currently the law.

Article 2, paragraph 4 of the United Nations Charter provides:

"All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations."

The United States, as a member of the United Nations, subscribes fully to these principles, and has conducted its outer space programs - as well as its other international activities - accordingly. Together, they articulate the basic tenets of a legal regime for outer space.

It is true that these principles do not ensure that international rivalry in the military field will not extend to outer space. No definition or statement of principles can alone secure that end. As a major step towards insuring that the arms race does not extend to outer space the United States has proposed that in the first stage of general and complete disarmament,

(a) the placing into orbit or stationing in outer space of weapons of mass destruction shall be prohibited, and

(b) states

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(b) states shall give advance notification to participating states and to the International Disarmament Organization of launchings of space vehicles and missiles, together with the track of the vehicle. N6

The United States has no program to place weapons of mass destruction into orbit in outer space. At the same time, we will of course take such steps as are necessary to defend ourselves and our allies if the Soviet Union forces us to do so.

The United States hopes that the Eighteen-Nation Disarmament Committee will give early and careful attention to this vital subject. It remains possible, through diligent efforts in that forum, to prevent the arms race from being extended into outer space. The United States will continue to seek that end.

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